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The Federal Public Service Bilingualism Bonus

Publication No. 2017-29-E
1 May 2018

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Parliamentary Information and Research Service

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The Federal Public Service Bilingualism Bonus
(Background Paper)

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Ce document est également publié en français.

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THE FEDERAL PUBLIC SERVICE BILINGUALISM BONUS

1 INTRODUCTION

In September 2017, the Clerk of the Privy Council released a report entitled *The next level: Normalizing a culture of inclusive linguistic duality in the Federal Public Service workplace*, in which he made a number of recommendations, including one to repurpose the bilingualism bonus to establish a new fund that would be used exclusively for the development of public servants' language skills.[1] The publication of this report has reignited debate about the bonus.

This Background Paper describes the purpose of the bonus and uses archival documents, House of Commons debates and newspaper articles to trace the history of the bonus from its introduction and development to the present day, and to summarize its financial impact.

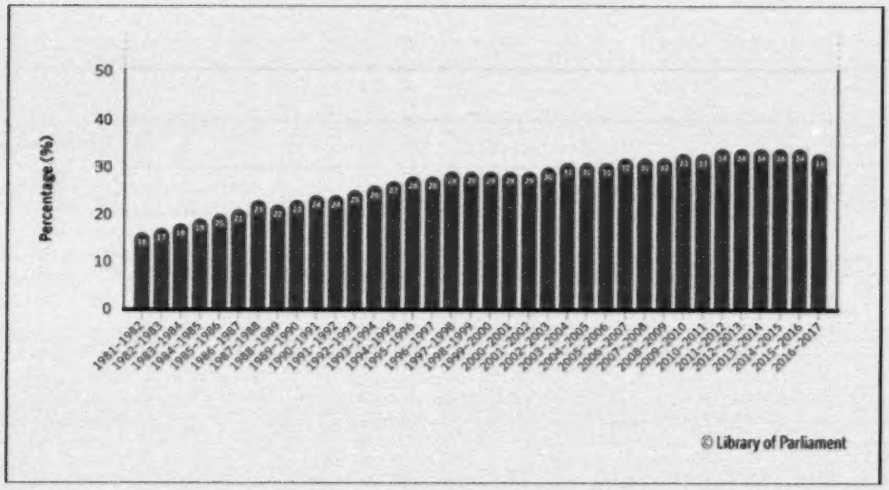
2 WHAT IS THE BILINGUALISM BONUS?

The bilingualism bonus is a taxable fixed amount of $800 paid annually to employees of all departments, Crown corporations and separate agencies listed in schedules I, IV and V of the *Financial Administration Act*.[2]

Aside from some exceptions,[3] employees are eligible for the bonus if they are in a designated bilingual position and have Second Language Evaluation results confirming that they meet the position's language requirements.[4]

Figure 1 shows the proportion of public servants who were paid the bilingualism bonus relative to the overall federal public service workforce since 1981–1982.

Figure 1 – Proportion of Bilingualism Bonus Recipients[a] Relative to the Entire Federal Public Service,[b] 1981–1982 to 2016–2017



Notes:
a. The data on the number of bilingualism bonus recipients cover employees of core public administration departments and agencies and separate agencies, as listed in schedules I, IV and V of the *Financial Administration Act*, R.S.C., 1985, c. F-11.
b. The data on the federal public service workforce cover active employees (employees on unpaid leave are excluded) of core public administration departments and agencies and separate agencies, regardless of their employment tenure (including students), as of the end of March of each fiscal year.

Source: Figure prepared by the Library of Parliament using data provided by the Treasury Board Secretariat in April 2018 in tables entitled *Bilingualism Bonus in the Federal Public Service, Total Amounts Paid and Number of Recipients (1981–1982 to 2016–2017), and Bilingualism Bonus*, and *Bilingual Positions in the Federal Public Service (1981–1982 to 2016–2017)*.

The bonus is governed by the *Bilingualism Bonus Directive* and is an integral part of the collective agreements between the parties represented on the National Joint Council.[5]

3 HISTORY

The concept of additional compensation for proficiency in English and French dates back to the 19th century, when employees who could write in English and French received an annual supplement.[6] However, it was in the political and sociocultural context of the 1960s that the first modern public service bilingualism bonus developed.

3.1 1960–1967: Initial 7% Bilingualism Bonus

In the early 1960s, public service unions proposed giving federal public servants a bonus for working in their second official language, as fair compensation for becoming bilingual.

This proposal was put before Parliament by Louis-Joseph Pigeon, MP for Joliette–L'Assomption–Montcalm, and Conservative Party critic for public works. On 2 October 1963, Mr. Pigeon tabled in the House of Commons Bill C-96, An Act Respecting Employment of Bilingual Persons in the Public Service and in Crown Corporations, which would

> provide for the suppression, within the civil service and the crown corporations, of the discrimination which marks at the present time the hiring and employment of French speaking personnel, and it would give preference to bilingual candidates.[7]

Bill C-96 died on the *Order Paper*. On 20 February 1964, Mr. Pigeon reintroduced his bill as Bill C-34. It was debated on 9 June 1964 and subsequently died on the *Order Paper*.

The government of Lester B. Pearson, which held power from 1963 to 1968, did not support a bilingualism bonus, maintaining that language skills were one of the core competencies and were already reflected in public servants' compensation.[8]

In February 1965, the Royal Commission on Bilingualism and Biculturalism (also known as the Laurendeau-Dunton Commission) released a preliminary report describing Canada as a nation in crisis where the two majorities – anglophone Canada and francophone Quebec – were in conflict. The public service was not immune to the linguistic tensions described by the Commission:

> In 1965, barely 9% of positions in the federal public service were designated bilingual; services were only offered in English; and Francophones made up just 21% of the workforce in federal institutions, despite representing around 28% of the Canadian population.[9]

On 6 April 1966, Prime Minister Pearson announced a policy in the House of Commons concerning bilingualism in the public service:

> In respect of bilingual clerical and secretarial positions, it has been agreed in principle that a higher rate of pay will be paid in future in respect of clerical and secretarial positions in which there is the requirement for a knowledge of both languages and where both are used in the performance of duties, providing the incumbents of such positions meet standards of competence established by the Civil Service Commission.[10]

On 9 February 1967, the Treasury Board officially established the bilingualism bonus.[11] The government announced that public servants in the secretarial, stenographic and typing groups who worked in their second language at least 10% of the time were to receive a bonus equivalent to 7% of their pay. They also had to take a test to assess their language skills.[12]

3.2 1969–1977: Introduction of Current Bilingual Bonus

With the coming into force in 1969 of the first *Official Languages Act*, the government continued to implement its bilingualism program within the public service and, as part of the Parliamentary Resolution on Official Languages in the Public Service of Canada passed in 1973, it reviewed the language designations of public service positions.

This review reopened the debate on the bilingualism bonus. The federal public service unions stepped up their campaign to make the 7% bonus available to all qualifying federal public servants. The government was against the applying the formula throughout the public service. It followed the guideline developed by the Laurendeau-Dunton Commission. In Book III of the final report, published in 1969, the commissioners stated that "[s]alary should not be determined by the bilingualism of the individual, but rather by the effective use of the two languages at work."[13]

The situation escalated on 13 February 1975. Employees of the Unemployment Insurance Commission, based in Montréal, refused to serve the public in English. The Honourable Jean Chrétien, then president of the Treasury Board, stated that the government was not "projecting to extend this bonus to other categories of federal public servants."[14] The boycott of bilingual services ended when the government promised to resume negotiations.[15]

The government unveiled its new language of work policy in August.[16] It also made a commitment to review the pay scale for designated bilingual positions.[17] Although it did not agree to a bonus, in the fall of 1975 it agreed in principle to additional compensation.

Tensions continued to mount despite this commitment. The Quebec branch of the Public Service Alliance of Canada (PSAC) threatened to boycott services in English across Quebec if an agreement was not reached.[18] Mr. Chrétien told the House of Commons that progress was slow because it was not simply a matter of reviewing the pay scale for designated bilingual positions in Quebec, but throughout Canada.[19]

Cabinet discussed the matter on 18 December 1975 and decided not to change course. It had to consider the policies of the Anti-Inflation Board (AIB). The AIB had been established by an Act of Parliament in 1975 to administer a wage and price control program. Cabinet informed the Treasury Board President that he should "not formally request the Anti-Inflation Board to provide a ruling on the question of compensation for the provision of bilingual services."[20] Instead, Cabinet wanted him to

> continue discussions with the union with a view to ascertaining agreed union position; continue to implement the previously-agreed policy of designating bilingual positions and negotiating appropriate compensation with respect thereto, taking cognizance of the effect of the requirement of a bilingual capacity in adding to job complexity.[21]

By late January 1976, despite the previous Cabinet decision, Jean Chrétien informed the unions that the Treasury Board was willing to present an official submission to the Anti-Inflation Board in cooperation with the unions.[22] The Treasury Board President based his decision on

> the informal and preliminary opinion of the Anti-inflation Board that any newly-granted extra compensation received by public service employees in respect of bilingual capability would be deemed to be an income increase subject to the anti-inflation guidelines.[23]

By asking the AIB to rule on the bonus, Chrétien believed he could offer the bilingualism bonus to the unions while specifying that future pay raises would have to be reduced accordingly to ensure compliance with the directives. He expected labour organizations to reject the bonus under these circumstances, and the government would no longer face pressure from bilingual public servants.[24]

On 15 March, the AIB reached an unexpected decision: it ruled that the directives did not apply to the compensation in question because it had been the subject of a specific ruling prior to 14 October 1975,[25] the date on which the AIB was officially established.

On 9 September 1977, following further clashes with PSAC,[26] the federal government agreed to pay an annual fixed amount of $800 to public servants who met the language requirements of their position.

On 15 October 1977, Treasury Board officially established the bilingualism bonus system that is still in effect to this day.[27]

3.3 The 1980s: Inclusion in Collective Agreements

The bilingualism bonus was supposed to be eliminated in 1983, as it had only been meant as a temporary measure to support bilingual staffing. In August 1978, the government of Pierre Elliot Trudeau announced that the bonus would be terminated as of 31 March 1979, but a series of political events forced the government to continue the program.

The proposal to end the bilingualism bonus was brought before the Public Service Staff Relations Board, an administrative tribunal, which ruled in 1979 and 1980 that the bonus constituted a legitimate pay supplement for using the additional language skills required by a position and that it was subject to collective bargaining. Dissatisfied, the government appealed the Board's ruling but in 1981, it was upheld by the Federal Court of Appeal, which found the matter to be within the Board's jurisdiction.[28]

The government clarified the criteria for the program in the 1980s.[29] On 16 January 1987, a new milestone was reached: Treasury Board issued the *Bilingualism Bonus Directive*. From that point onward, the bonus would be an integral part of collective agreements.

3.4 1990–2007: Legal Challenges

The bilingualism bonus was brought before the courts in the early 1990s in *Gingras v. Canada*. The Federal Court ruled that non–public service employees of the Royal Canadian Mounted Police (RCMP) are entitled to the bilingualism bonus because the Treasury Board is their employer.[30] The government appealed, but the Federal Court of Appeal upheld the lower court's decision on 10 March 1994.[31] The government announced in May 1994 that it would abide by the ruling.[32]

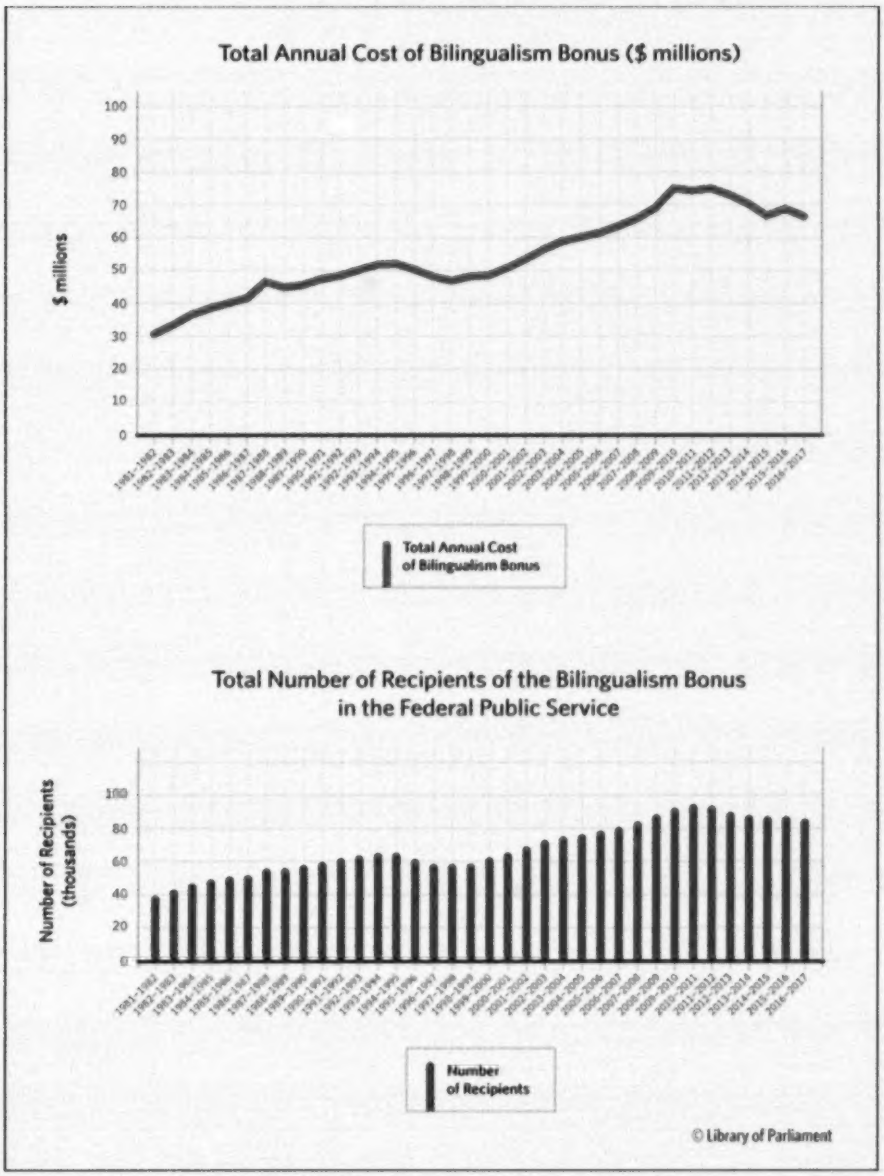
In 2006, 119 employees and former employees of the Canadian Security Intelligence Service (CSIS) asked the Federal Court to review the CSIS director's decision not to grant them the bilingualism bonus. Fifteen years earlier, in *Gingras v. Canada*, the Federal Court had ruled that CSIS was not under the responsibility of Treasury Board, and the director of CSIS could therefore exercise discretion regarding payment of the bilingualism bonus. However, the plaintiffs were all employed by the RCMP prior to the creation of CSIS in 1984. In *Employé no 1 c. Canada*, the Court quashed the decision by the CSIS director not to grant the bonus.[33] In 2007, the Federal Court of Appeal dismissed an appeal from the decision.[34] As a result, the employees and former employees obtained the right to the bilingualism bonus. It is worth noting that, on 1 April 2013, CSIS eliminated the bonus for its non-unionized employees.[35]

4 FINANCIAL ISSUES

4.1 Total Cost of the Bilingualism Bonus from 1981 to 2017

In April 2018, the Library of Parliament obtained a complete, unpublished dataset on the total cost of the bilingualism bonus for fiscal years 1981–1982 to 2016–2017 from the Treasury Board Secretariat (TBS). A summary of this data is provided in Figure 2. Note that the total annual cost and total number of recipients for years prior to 1997–1998 are estimates based on the number of active employees deemed eligible for the bilingualism bonus, as this data could not be extracted from the salary payment and deduction files.

Figure 2 – Total Annual Cost and Number of Recipients of the Bilingualism Bonus in the Federal Public Service, 1981–1982 to 2016–2017


Total Annual Cost of Bilingualism Bonus ($ millions)
$ millions
Total Annual Cost of Bilingualism Bonus
Total Number of Recipients of the Bilingualism Bonus in the Federal Public Service
Number of Recipients (thousands)
Number of Recipients
© Library of Parliament

Note: The data from years prior to 1981–1982 are not included for data quality reasons.

Source: Figure prepared by the Library of Parliament using data provided by the Treasury Board Secretariat in April 2018. The data cover employees of core public administration departments and agencies and separate agencies, as listed in schedules I, IV and V of the *Financial Administration Act*, R.S.C., 1985, c. F-11. Civilian employees of the Royal Canadian Mounted Police are included in the data, but only those who were part of the core public administration. The data do not cover employees of the Canadian Security Intelligence Service, the National Capital Commission, Canada Investment and Savings, the Canadian Forces Non-Public Funds, and the Security Intelligence Review Committee.

According to the TBS data, the bilingualism bonus program cost over $30 million in 1981–1982. The cost of the bonus increased gradually thereafter.

As mentioned above, after the *Bilingualism Bonus Directive* was adopted in January 1987, the bonus became part of collective agreements. It is possible that this change contributed to the increase in the number of recipients: from 1986–1987 to 1987–1988, that figure increased by 8% (or by 4,135 public servants).

In April 1987, TBS imposed language proficiency tests on bilingualism bonus recipients.[36] According to the Commissioner of Official Languages, this new measure resulted in some recipients losing the bonus. However, the Commissioner noted that these public servants could become eligible for the bonus again by taking up to 200 hours of additional language training.[37] All told, the number of recipients did increase from 1987–1988 to 1988–1989, but only by 0.38% (209 recipients).

Although the number of recipients increased slightly between 1987–1988 and 1988–1989 (from 55,706 to 55,915), the total cost of the bonus declined marginally to $44.8 million. According to TBS, some years have 27 pay periods. This was the case in 1987–1988, and that is why the cost of the bonus was higher that year than it was in 1988–1989, despite the lower number of recipients as of the end of March.[38] The total cost of the bonus increased the following year and continued to do so gradually throughout the 1990s. It reached a little over $52 million in 1994–1995.

Figure 2 does not account for the additional expenditure of an estimated $33 million in 1994–1995 as a result of the Federal Court of Appeal ruling in *Gingras v. Canada*[39] (see section 3.4 of this Background Paper).[40] The Commissioner of Official Languages reported that the total cost of the bonus was therefore $86.6 million in 1994–1995, taking into account the "$33 million to cover retroactive payments which had to be made to 2,500 officers of the Royal Canadian Mounted Police."[41]

From 1994–1995 to 1997–1998, the cost of the bonus gradually decreased. The Commissioner of Official Languages reported that the decrease was the result of "departures that occurred following government downsizing."[42] The total cost of the bonus fell from $52 million (65,239 recipients) in 1994–1995 to $46.6 million (58,318 recipients) in 1997–1998.

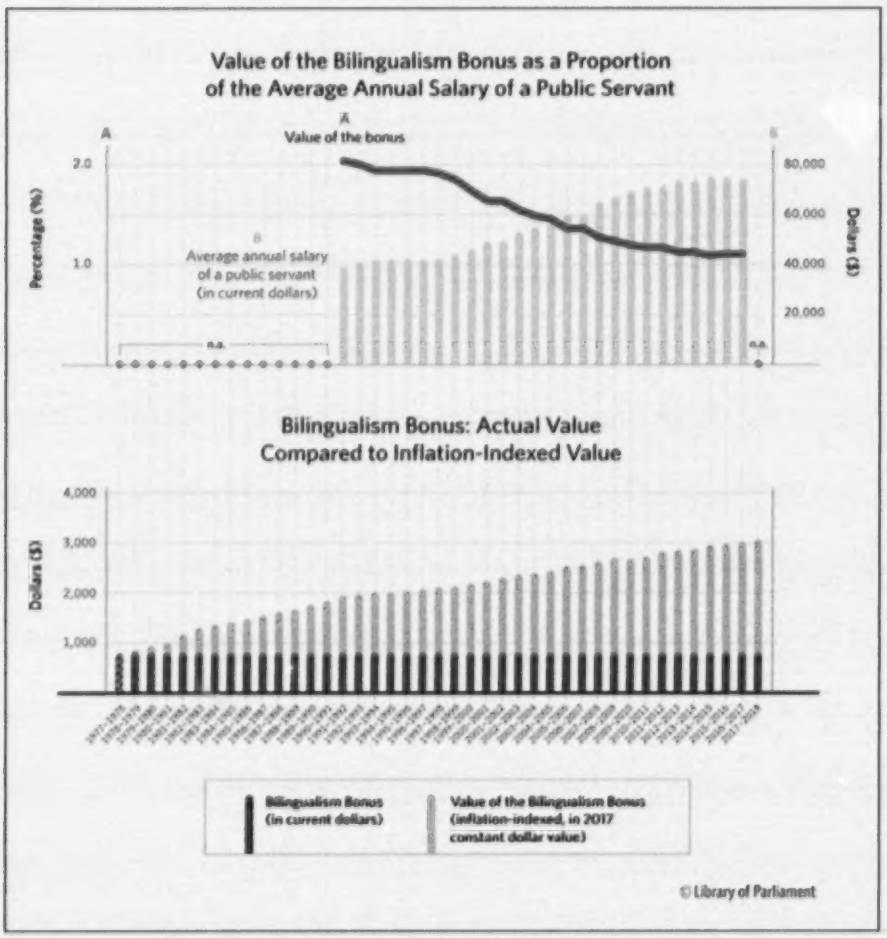
Starting in 1998–1999, the total cost of the bilingualism bonus program, along with the number of recipients, rose, before stabilizing in 2009–2010 at just over $74.8 million. The next fiscal year, the total cost of the bonus program began a gradual decline owing to workforce reductions across the public service and the consequent decrease in the number of recipients. This downsizing of the federal workforce was part of the 2011 Deficit Reduction Action Plan and the 2011–2012 Strategic and Operating Review.

In 2016–2017, the total cost of the bonus was slightly more than $66 million.

4.2 Indexed Value of the Bilingualism Bonus

The annual fixed amount of $800 was established in 1977 and has never been increased. As shown in Figure 3, if this initial amount had been indexed to inflation, the bilingualism bonus would now be worth approximately $3,060.

Figure 3 – Actual and Indexed Value of the Bilingualism Bonus 1977–1978 to 2017–2018



Sources: Figure prepared by the Library of Parliament using data obtained from Bank of Canada, *Inflation Calculator*; and Statistics Canada, "Table: 14-10-0244-01: Average weekly earnings (SEPH), unadjusted for seasonal variation, by type of employee for selected industries classified using the North American Industry Classification System (NAICS)"; and "Table 14-10-0203-01: Average weekly earnings by industry, monthly, unadjusted for seasonality," accessed 1 May 2018.

5 CONCLUSION

When the bilingualism bonus program was introduced in 1977, Max Yalden, the Commissioner of Official Languages at the time, was extremely opposed to it and called for its cancellation. All subsequent commissioners have questioned its effectiveness as a means of developing a bilingual public service and ensuring that services are delivered in both official languages. Generally speaking, they have stated that language skills are core competencies that should be reflected in public servants' compensation. A number of commissioners have stated that the funds should be allocated to language training and, more recently, that the annual fixed amount of $800 is not an incentive to learn or master a second official language.

In 2005, as part of a study on bilingualism in the public service, the House of Commons Standing Committee on Official Languages examined the bilingualism bonus. In its final report, the Committee recommended that the bonus be eliminated and that "knowledge of the two official languages be considered a professional skill that is reflected in the salaries of federal employees."[43] In its response to this recommendation, the government stated that since

> the National Joint Council Bilingualism Bonus Directive forms part of the collective agreements, the bilingual bonus could not be amended without consulting the bargaining agents participating on the National Joint Council.[44]

Finally, as stated above, the Clerk of the Privy Council released a report in September 2017 recommending that the bilingualism bonus be repurposed to establish a fund for the development of public servants' language skills, to be administered jointly with bargaining agents.[45]

NOTES

1. Clerk of the Privy Council, *The next level: Normalizing a culture of inclusive linguistic duality in the Federal Public Service workplace*, September 2017.
2. *Financial Administration Act*, R.S.C. 1985, c. F-11.
3. For example, the bonus is not payable to employees in the Executive Group of the Management Category, employees in the Translation Group or persons appointed by the Governor in Council.
4. National Joint Council, *Bilingualism Bonus Directive*.
5. The National Joint Council was established in 1944 as a forum to facilitate discussions between the federal government, as the employer, and public service bargaining agents.
6. In 1888, major changes were made to the *Civil Service Act of Canada, 1882*, including the addition of a $50 bonus for the ability to execute "composition in French by English candidates [and] composition in English by French candidates." See *Report of the Royal Commission on Bilingualism and Biculturalism, Book III: The Work World*, Ottawa, 1969, p. 99.
7. House of Commons, *Debates*, 1st Session, 26th Parliament, 2 October 1963, p. 3109.
8. House of Commons, *Debates*, 2nd Session, 26th Parliament, 2 April 1964, p. 1733.

9. Office of the Commissioner of Official Languages, "Looking back: A defining moment – The Royal Commission on Bilingualism and Biculturalism," *Beyond Words: Canada's Official Languages Newsletter*, No. 5, Fall 2009.
10. House of Commons, *Debates*, 1st Session, 27th Parliament, 6 April 1966, p. 3916.
11. Treasury Board, Circular 1967-6. See also Government of Canada, *Bilingualism bonus*.
12. House of Commons, *Debates*, 1st Session, 27th Parliament, 21 November 1966, pp. 10106–10107. See also Marcel Desjardins, "La prime au bilinguisme accordée," *Le Droit* [Ottawa], 10 November 1966. Several years later, the government stated that this decision was taken "because of particular circumstances, because of the fact that the supply of and demand for secretaries did not favour the government." See House of Commons, *Debates*, 1st Session, 30th Parliament, 25 February 1975, p. 3534.
13. Royal Commission on Bilingualism and Biculturalism (1969), "Chapter X – Towards Equal Partnership in the Public Service: Conclusions and Recommendations," *Book III: The Work World*, Part 2, pp. 276–277.
14. House of Commons, *Debates*, 1st Session, 30th Parliament, 18 February 1975, p. 3310.
15. "Bilingual bonus drive fizzles," *Gazette* [Montréal], 29 June 1977.
16. Commissioner of Official Languages, *Fifth Annual Report 1975*, Ottawa, 1976, p. 12.
17. House of Commons, *Debates*, 1st Session, 30th Parliament, 11 December 1975, p. 9920.
18. "Civil servants will speak only mother tongue in campaign to get bonus for being bilingual," *Globe and Mail* [Toronto], 31 December 1975.
19. House of Commons, *Debates*, 1st Session, 30th Parliament, 16 December 1975, p. 10046.
20. Library and Archives Canada [LAC], RG2, Privy Council Office, Series A-5-a, Vol. 6457, "Remuneration for bilingualism," Cabinet conclusion, 18 December 1975, Item 41529.
21. Ibid.
22. LAC, MG26 O, Series 11, Vol. 30, File 240204.2 Secret 12/1975-2/1976 Prime de bilinguisme, "Note au premier ministre : rémunération pour le bilinguisme," 2 February 1976. [Translation]
23. LAC (1975), "Remuneration for bilingualism."
24. LAC (1976), "Note au premier ministre : rémunération pour le bilinguisme." [Translation]
25. LAC, MG26 O, Series 7, Vol. 572, File 240201 (1973–1977), "Note pour le premier ministre : les langues officielles," 12 April 1976, p. 1. [Translation]
26. Louis Tardif, "La prime au bilinguisme n'est pas près d'être versée," *Le Soleil* [Québec], 20 March 1976; Gilles Paquin, "Une crise pire que celle du trafic aérien? – Prime au bilinguisme : les négociations sont rompues," *Le Droit*, 19 August 1976; Louis-Gilles Francoeur, "Un accord intervient sur la prime au bilinguisme," *Le Devoir* [Montréal], 1 September 1976; and Patricia Poirier, "La prime au bilinguisme: un accord est imminent," *Le Devoir*, 16 August 1977.
27. Treasury Board, Circular 1977-46. See also Government of Canada, *Bilingualism bonus*.
28. *The Queen v. Public Service Alliance of Canada*, [1981] 2 FC 625.
29. Commissioner of Official Languages, *Annual Report 1983*, Ottawa, 1984, p. 15.
30. *Gingras v. Canada*, [1990] 2 FC 68.
31. *Gingras v. Canada*, [1994] 2 FC 734.
32. "Ottawa to pay bilingual bonus to Mounties," *Gazette* [Montréal], 10 May 1994, p. B1.

33. *Employee no. 1 v. Canada*, 2006 FC 699.

34. *Canada v. Employee No. 1*, 2007 FCA 152.

35. Kathryn May, "Has the PS bilingualism bonus had its day?," *Ottawa Citizen*, 29 March 2016.

36. Commissioner of Official Languages, *Annual Report 1987*, Ottawa, 1988, p. 56.

37. Ibid., p. 39.

38. Fiscal year 2009–2010 was also a year with 27 pay periods, which resulted in a small decrease in the cost of the bonus in the following year (2010–2011).

39. Commissioner of Official Languages, *Annual Report 1995*, Ottawa, 1996, pp. 60 and 61.

40. Only civilian employees of the Royal Canadian Mounted Police who worked in the core public administration are included in the data used for Figure 2.

41. Commissioner of Official Languages, *Annual Report 1996*, Ottawa, 1997, p. 63.

42. Ibid.

43. House of Commons, Standing Committee on Official Languages, *Bilingualism in Public Service of Canada*, Second Report, 1st Session, 38th Parliament, May 2005, p. 21.

44. Government of Canada, *Government response to the second report of the Standing Committee on Official Languages: Bilingualism in the Public Service of Canada*, 1st Session, 38th Parliament.

45. Clerk of the Privy Council (2017).